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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

XIANZHAO PENG,
LEI JIANG,

Plaintiffs,

v.

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security;
EMILIO T. GONZALES, Director of
U.S. Citizenship and Immigration Services;
GERARD HEINAUER, Director of
Nebraska Service Center of USCIS;
CHRISTINA POULOS, Director of
California Service Center of USCIS;
ROBERT S. MUELLER, III, Director of
Federal Bureau of Investigation;
PETER D. KEISLER, Acting Attorney General
of U.S. Department of Justice;

Defendants.

No. C 07-5651 PVT

**JOINT CASE MANAGEMENT
STATEMENT and [Proposed] ORDER**

1. Jurisdiction and Service:

The basis asserted by Plaintiffs for this Court's jurisdiction is 28 U.S.C. §§ 1331 and 1361, and 5 U.S.C. § 701. The parties do not dispute that venue is proper in this district. No issues exist regarding personal jurisdiction or venue, and no parties remain to be served.

1 2. Facts:

2 Plaintiffs each filed a Form I-485 application to adjust their status to lawful permanent resident
3 with the United States Citizenship and Immigration Services (USCIS) on or about on May 23,
4 2005. The USCIS has not yet adjudicated the Form I-485 applications. The Plaintiffs filed an
5 action on November 7, 2007, seeking an order from this Court directing USCIS to adjudicate their
6 Form I-485 applications.

7 3. Legal Issues:

8 Whether this Court should dismiss the Plaintiffs' action for lack of subject matter jurisdiction.
9 If this Court has jurisdiction, whether the USCIS is processing the Plaintiffs' I-485 applications
10 within a reasonable period of time.

11 4. Motions:

12 The parties intend to file cross-motions for summary judgment.

13 5. Amendment of Pleadings:

14 No parties, claims or defenses are expected to be added or dismissed.

15 6. Evidence Preservation:

16 The parties do not have any evidence that falls within this category.

17 7. Disclosures:

18 The parties believe that the initial disclosure requirements of Fed. R. Civ. P. 26 do not apply to
19 this case.

20 8. Discovery:

21 The parties do not intend to take any discovery at this time.

22 9. Class Actions:

23 N/A

24 10. Related Cases:

25 The parties are not aware of any related case or cases.

26 11. Relief:

27 The Plaintiffs ask this Court to direct USCIS to adjudicate Plaintiffs' Form I-485 applications.
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12. Settlement and ADR:

The parties filed a Notice of Need for ADR Phone Conference on February 4, 2008.

13. Consent to Magistrate Judge for All Purposes:

The parties do consent to a magistrate judge.

14. Other References:

The parties do not believe that this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues:

The parties do not believe that the issues can be narrowed by agreement or by motion, and do not have suggestions to expedite the presentation of evidence at trial (e.g. through summaries or stipulated facts), and any request to bifurcate issues, claims or defenses.

16. Expedited Schedule:

The parties believe this case can be resolved on cross-motions for summary judgment.

17. Scheduling:

The parties propose the following schedule on the parties' cross-motions for summary judgment:

Cross-Motions for Summary Judgment:	March 11, 2008
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Cross-Oppositions:	March 25, 2008
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Hearing:	April 8, 2008 at 10:00 a.m.
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18. Trial:

The parties do not anticipate the need for a trial in this case.

19. Disclosure of Non-party Interested Entities or Persons:

The parties' intend to file the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16.

20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

None.

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1 Date: February 15, 2008

Respectfully submitted,

2 JOSEPH P. RUSSONIELLO
3 United States Attorney

4 /s/
5 ILA C. DEISS¹
6 Assistant United States Attorney
7 Attorneys for Defendant

8 Date: February 15, 2008

9 /s/
10 XIANZHAO PENG
11 LEI JIANG
12 *Pro se*

13 **CASE MANAGEMENT ORDER**

14 The Joint Case Management Statement and Proposed Order are hereby adopted by the
15 Court as the Case Management Order for the case, and the parties are ordered to comply with this
16 Order.

17 Date:

18 PATRICIA V. TRUMBULL
19 United States Magistrate Judge

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27 ¹ I, Ila Deiss, hereby attest that I have on file all holograph signatures for any signatures
28 indicated by a “conformed” signature (/s/) within this e-filed document.